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EXECUTIVE DEPARTMENT

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**MEMORANDUM**

TO: All Employees of the Executive Branch  
FROM: Mark A. Reilly, Chief Legal Counsel   
DATE: October 5, 2012 (updated and re-issued)  
RE: Restrictions on Political Activities by Compensated State Employees

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As state employees, we are obliged to understand and comply with the laws concerning political activity by state employees. This memorandum summarizes the major rules governing how and when compensated state employees may participate in political activity. This memorandum cannot address every situation and we encourage you to contact the General Counsel or other designated lawyer in your department or agency, or the State Ethics Commission or the Office of Campaign and Political Finance, if you wish to discuss a particular question.

The basic principles are that public employees may not engage in political activity on public time and that public resources are to be used for governmental purposes, and not for political or other personal activities.

In most cases, you as an individual are free to engage in political activity on your own time, subject to the limitations outlined below. "Political activity" includes any activity that supports or opposes a federal, state or local candidate or political party or a state or local ballot question. You may not, however, solicit or receive, directly or indirectly, any contribution or anything of value for **any** political purpose.

The general guidelines are as follows.

**YOU MAY NOT:**

1. Use any public resources, including those of any city, town, authority, or subdivision of the Commonwealth, for campaign or other political purposes. "Public resources" means virtually anything that is paid for by the taxpayers,

including computers, email accounts, office equipment and supplies, vehicles, buildings and the paid time of public employees. For instance, you may not:

- for campaign or other political purposes, use publicly provided utilities, computers, email accounts, blackberries, telephones, postage, postage machines, copying machines, typewriters, or fax machines;
  - use state resources to prepare or deliver campaign statements; or
  - use state resources in connection with press conferences or press availabilities for predominantly campaign purposes.<sup>1</sup>
2. Engage in **any** campaign or political activity during regular work hours. If you wish to engage in political activity during your lunch break, you must schedule the time of your break with your supervisor in advance.<sup>2</sup> This means that during work hours you may not, for example:
- go to the offices of the Republican or Democratic State Committees;
  - write, edit or proofread campaign speeches;
  - perform advance preparation work for campaign appearances; or
  - hold signs, make telephone calls, write letters or stuff envelopes for campaign purposes.

You may engage in campaign or political activities on your own time only, which would include **vacation** time or **personal** time. Your timesheet must reflect any such personal or vacation time.

3. Use the state seal or coat of arms, even on privately purchased stationery or other materials in connection with campaign or political purposes.
4. Use your official title in connection with any political activity that you engage in on your own time.
5. Solicit or receive, directly or indirectly, any contribution or anything of value for **any** political purpose. "Political purpose" includes fundraising activity on behalf of any candidate or political committee, including parties, political action committees and ballot question committees on any level—local, state or federal. You may not, for example:

- serve as treasurer of a political campaign;
- identify or provide names to a political committee to be solicited;

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<sup>1</sup> While you may answer spontaneously questions posed by the press, the best practice is to refrain from commenting publicly on political campaigns and candidacies at your workplace unless you obtain permission in advance from the State Ethics Commission to do otherwise.

<sup>2</sup> You may not, however, engage in political *fundraising* even during your lunch break, because M.G.L. c. 55, § 13 prohibits public employees from soliciting or receiving political contributions at any time, i.e., even during non-work hours. This restriction does not apply to elected officials.

- participate in fund-raising committees or fund-raising planning meetings;
  - make or threaten to make any government benefits, business or employment contingent on contributions of funds or services to any campaign;
  - be the featured speaker at a political fund-raising event;<sup>3</sup>
  - allow your name to be used on a political committee's stationary if the stationary is used in soliciting funds;
  - host a fund-raising event at your home;<sup>4</sup>
  - distribute or sell tickets to political fund-raising events; or
  - perform any volunteer work that is directly connected with political fund-raising.
6. Represent anyone other than the Commonwealth, including a campaign committee, in connection with any matter in which the Commonwealth is a party or has a substantial interest.
  7. Solicit campaign assistance from anyone who has a matter pending before you or before any of your subordinates.
  8. Require other state employees to contribute to or participate in campaign activities, or penalize state employees who do not contribute to or participate in campaign activities in their spare time.
  9. Use confidential information gained by reason of your official position to engage in any political activity, including political fund-raising (or for any other personal interest). Confidential information may include, but is not limited to: databases, names, addresses, telephone numbers, and e-mail addresses.

**YOU MAY (subject to the above restrictions):**

1. Be a member of a political organization or committee;
2. Make a political contribution within legal limits, as long as the contribution is given to a campaign committee, and not to another employee;
3. Donate your time to a political campaign outside of working hours, including on vacation time (as long as you do not participate in fundraising activities for a political campaign at any time);

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<sup>3</sup> According to the Office of Campaign and Political Finance ("OCPF"), state law does not prohibit a public employee from attending and speaking about non-fundraising matters at a political fundraiser (provided that the public employee's attendance and remarks are not used as a "draw" to the event or to otherwise enhance political fund-raising efforts).

<sup>4</sup> OCPF has determined that the spouse of a state employee, under particular circumstances, may host a fund-raising event in his or her home, even if the home is jointly owned by the state employee. However, the state employee must not participate in any way in soliciting or receiving contributions.

4. Attend political fund-raisers, although you may not be used as a “draw” for an event;
5. Run for political office, provided a committee is organized to solicit and receive contributions on your behalf. Before you run for office, you must ask your supervisor whether it can be done consistent with your obligations to the Commonwealth. Your committee must ensure that it does not solicit or receive contributions from any person having an interest in any particular matter in which you have participated during the course of your employment or which is the subject of your official responsibility.
6. If you are an appointed policy-maker, you may take certain actions regarding ballot questions to inform and guide public debate on public issues within the scope of your official responsibility.

Please note that these descriptions of permitted and prohibited activities also apply to the use of social media. Additional information regarding the use of social media for public employee political activity can be found through the following Office of Campaign and Political Finance (OCPF) link: <http://www.ocpf.net/legaldoc/IB-04-01-2012.pdf>.

For further information about how the Conflict of Interest law regulates political activity, consult the State Ethics Commission at (617) 371-9500 or the Commission's Revised Advisory on Political Activity (No. 11-1), which can be found at: <http://www.mass.gov/ethics/education-and-training-resources/info-section-7/advisories/advisory-11-1.html>. For further information about how the Campaign Finance law applies to public employees, consult the OCPF at (800) 462-OCPF or at [www.mass.gov/ocpf](http://www.mass.gov/ocpf), or the OCPF's Campaign Finance Guide, which can be found at: [http://www.ocpf.net/guides/guide\\_pub\\_emp.pdf](http://www.ocpf.net/guides/guide_pub_emp.pdf).